रजिस्ट्री सं० डी-(डी)-72 REGISTERED No. D-(D)-72

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 1
PART II—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 34] नई दिल्ली, शुक्रवार, फरवरी 13, 1976/माघ 24, 1897
No. 34] NEW DELHI, FRIDAY, FEBRUARY 13, 1976/MAGHA 24, 1897

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 13th February 1976/Magha 24, 1897 (Saka)

THE PONDICHERRY IRRIGATION CESS REGULATION, 1976

No. 5 OF 1976

Promulgated by the President in the Twenty-seventh Year of the Republic of India.

A Regulation to levy a cess for the use of water supplied for irrigation purposes in certain cases in the Union territory of Pondicherry.

In exercise of the powers conferred by the second proviso to clause (1) of article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Pondicherry Irrigation Cess Regulation, 1976.

(2) It extends to the whole of the Union territory of Pondicherry.

(*3*) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Regulation, unless the context otherwise requires,—

(*a*) "canal" includes—

(*i*) channel, pipe and reservoir constructed, maintained or controlled by Government for the supply or storage of water;

(*ii*) any work, embankment, structure, and supply and escape-channel connected with any canal or with such channel, pipe or reservoir, and any road constructed for the purpose of

facilitating the construction or maintenance of any canal or such channel, pipe or reservoir;

(*iii*) any part of a river, stream, lake, natural collection of water or natural drainage-channel;

(*b*) "Collector" means the chief officer in charge of the revenue administration of the Union territory of Pondicherry and includes, in relation to any function to be performed by the Collector under this Regulation, such other officer as the Government may, by notification in the Official Gazette, appoint for the purpose;

(c) "fasli" means the year commencing on the 1st day of July of a year and ending with the 30th day of June of the next year;

(*d*) "Government" means the administrator of the Union territory of Pondicherry appointed by the President under article 239 of the Constitution;

(*e*) "lands under irrigable command of a canal" means such lands as are irrigated or capable of being irrigated from the canal, being under its command and includes such lands as shall be deemed to be irrigated within the meaning of section 4;

(*f*) "prescribed" means prescribed by rules made under this Regulation;

(*g*) "project areas" means areas under Cauveri Mettur Project and the Veedur Project and includes such other areas as the Government may, by notification in the Official Gazette, specify, from time to time, as project areas for the purposes of this Regulation.

Levy and rate of irrigation cess.

3. (*1*) There shall be levied before the end of every fasli succeeding that in which the irrigation takes place a cess called the irrigation cess in respect of every land under irrigable command of a canal:

Provided that no irrigation cess shall be leviable in respect of water supplied or used for the irrigation of any land which is classified and assessed as wet, unless such land is irrigated whether voluntarily or involuntarily and whether wholly or in part,—

(*i*) from any source other than a source assigned by the Revenue Department or adjudged by a competent civil court as the source of irrigation of such land; or

(*ii*) from any source assigned by the Revenue Department or adjudged by a competent civil court as the source of irrigation of such land otherwise than in accordance with any notification or order of the Government or of any authority subordinate thereto, regulating or specifying the time, method and conditions of supply of water for the irrigation of such land from such source and the number of crops which may be irrigated on such land with such supply, free of separate charge.

(*2*) Subject to the provisions of the First Schedule, the Government may, by notification in the Official Gazette, from time to time, specify the rates of irrigation cess, to be levied under sub-section (*1*) not exceeding the rates specified in that Schedule.

(3) Nothing in this section shall apply to any land referred to in section 4.

Land deriving benefit from percolation liable to irrigation cess.

4. If it shall appear to the Collector that any cultivated land—

(*a*) receives by percolation or leakage from a canal an advantage equivalent to that which would be given by a direct supply of canal water for irrigation; or

(*b*) derives by a surface-flow, or by means of a well sunk within forty-five metres of any canal after the admission of water into such canal, a supply of water which has percolated or leaked from such canal,

he may levy on such land the irrigation cess at the rate specified under section 3.

Explanation.—For the purposes of this Regulation, any land deriving benefit under clause (*a*) or clause (*b*) shall be deemed to be land irrigated from a canal.

Penalty for irregular irrigation, remission of penalty and revision.

5. (*1*) In addition to the irrigation cess, there shall be levied in respect of any land under irregular irrigation a penalty at such rates and in accordance with such conditions as are specified in the Second Schedule.

Explanation.—Irrigation is said to be "irregular" when water from a Government source or work is taken or used in the following cases, namely:—

(*i*) when the water is taken or used for any land registered as wet in the revenue records otherwise than in accordance with the conditions on which it is so registered; or

(*ii*) when the water is taken or used for any other land otherwise than under and in accordance with the terms of a general or special permit in force issued by any authority competent to issue such permit; or

(*iii*) when the water is taken or used for any land in a manner involving any unauthorised interference with an irrigation or drainage work such as cross-bunding a channel, making a cut or hole in the bund, opening or breaking a sluice, changing a pipe, or altering the position of a pipe; or

(*iv*) when the water is taken or used for any land contrary to the orders of any authority competent to give such orders; or

(*v*) when the water is taken or used for any land in breach of any rule directing from what source or on what conditions water may be taken or used for such land.

(2) The Collector may, for reasons to be recorded in writing and subject to such rules as may be made in this behalf, remit the whole or any part of the penalty leviable under sub-section (*1*).

(3) The Government may call for and examine any record relating to such remission for the purpose of satisfying itself of the regularity

or propriety of such remission and may modify or reverse the decision of the Collector.

Liability when water runs to waste.

6. When water taken from a source or work under the control of the Government be suffered to run to waste by any act or negligence of a person or a group of persons, such person or group of persons shall be liable to pay a penalty not exceeding the irrigation cess that could be levied under the First Schedule.

Liability to pay cess, penalty, etc.

7. The irrigation cess under section 3 or under section 4 or the penalty under section 5 or any arrears thereof shall be payable by such persons as are liable to pay the land revenue under any law for the time being in force.

Recovery of amount, etc.

8. Any amount payable under section 7 or the penalty payable under section 6 shall be recoverable as an arrear of land revenue.

Power to make rules.

9. (*1*) The Government may make rules for carrying out the purposes of this Regulation.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the procedure to be followed in the levy of irrigation cess and penalty; and

(*b*) any other matter which is to be, or may be, prescribed.

(*3*) Every rule made under this Regulation shall, as soon as may be after it is made, be laid before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE FIRST SCHEDULE

[*See* sections 3 (*2*) and 61

PART I

WET LANDS

(Lands registered in the revenue records as single crop wet lands under the same source of irrigation under which they are registered).

A.—Crops which ordinarily remain on the ground for more than six months.

Sl. No.	Crops	Maximum rate of irrigation cess
(1)	(2)	(3)
1.	Crops grown and harvested in the same fasli	Half the wet assessment on the land.
2.	Crops grown in one fasli and harvested in the next fasli:	
	(i) if no other irrigated crop is raised in either fasli,	No cess in either fasli.
	(ii) if one other irrigated crop is raised either before or after such crop,	No cess in the first fasli. One-half of the wet assessment on the land in the second fasli.
	(iii) if two other irrigated crops are raised, one before and one after such crop,	No cess in the first fasli. Full wet assessment on the land in the second fasli.
3.	Crops existing on lands for two years or more	Half the wet assessment on the land in each fasli.

B.—Where two crops are raised.

Sl. No.	Crops		Maximum rate of irrigation cess	
	First Crop	Second Crop	First Crop	Second Crop
(1)		(2)	(3)	(4)
1.	Wet	Wet	No cess	Half the wet assessment on the land.
2.	Wet	Dry systematically irrigated.	Do.	The rate leviable for a similar crop raised on dry lands, subject to the maximum of half the wet assessment on the land.
3.	Wet	Dry occasionally irrigated	Do.	
4.	Dry systematically irrigated.	Wet	Do.	
5.	Dry systematically irrigated.	Dry occasionally irrigated	Do.	
6.	Dry occasionally irrigated.	Wet	Do.	
7.	Dry occasionally irrigated.	Dry systematically irrigated.	Do.	
8.	Dry occasionally irrigated.	Dry occasionally irrigated	Do.	

C.— Where more than two crops are raised.

Crop	Maximum rate of irrigation cess
(1)	(2)
Third Crop.	The difference between half the wet assessment on the land and the rate leviable under B. above or the second crop.

PART II

LANDS OTHER THAN WET LANDS

A.—Crops which ordinarily remain on the ground for more than six months.

Maximum rate of irrigation cess per hectare	
Lands under project areas	Lands under other areas
Rs. p.	Rs. p.
112·50	75·00

B.—Crops other than those covered by A. above :

(i) where two crops are raised :

Sl. No.	Crop		Maximum rate of irrigation cess per hectare for each crop			
			Lands under project areas		Lands under other areas	
	First Crop	Second Crop	First Crop	Second Crop	First Crop	Second Crop
(1)	(2)	(3)	(4)	(5)	(6)	(7)
			Rs. p.	Rs. p.	Rs. p.	Rs. p.
1.	Wet . . .	Wet	75—00	37—50	50—00	25—00
2.	Wet . . .	Dry systematically irrigated.	75—00	28—14	50—00	18—75
3.	Wet . . .	Dry occasionally irrigated.	75—00	18—75	50—00	12—50
4.	Dry systematically irrigated.	Wet	56—25	46—89	37—50	31—25
5.	Dry systematically irrigated.	Dry systematically irrigated.	56—25	37—50	37—50	25—00
6.	Dry systematically irrigated.	Dry occasionally irrigated.	56—25	28—14	37—50	18—75
7.	Dry occasionally irrigated.	Wet	37—50	56—25	23—00	37—50
8.	Dry occasionally irrigated.	Dry systematically irrigated.	37—50	46—89	25—00	31—25
9.	Dry occasionally irrigated.	Dry occasionally irrigated.	37—50	37—50	25—00	25—00

(ii) where third crop is raised:

Sl. No.	Crop	Maximum rate of irrigation cess per hectare for the third crop	
		Lands under project areas	Lands under other areas
(1)	(2)	(3)	(4)
		Rs. p.	Rs. p.
1.	Wet . . .	37—50	25—00
2.	Dry, whether systematically or occasionally irrigated. . .	18—75	12—50

Explanation : (1) The expression "systematically irrigated" refers to the irrigation of dry crops like ragi, cholam, cumbu, groundnut and chillies;

(2) The expression "occasionally irrigated" refers to the irrigation of dry crops like rainfed cumbu and gingelly;

(3) The expression "wet assessment" refers to the land assessment in respect of lands registered as wet lands in the revenue records under the settlement in force from time to time.

CONDITIONS

1. (i) Cocoanut and other tope plantations on single crop wet land shall be treated as crops remaining on ground for more than six months if water is taken for a number of months in a fasli sufficient for raising two rice crops, that is for more than six months.

(ii) Such trees, if more than three years' old, shall not be treated as irrigated crops, unless they are irrigated otherwise than by percolation.

(iii) Where isolated trees are grown on bunds of fields or elsewhere, every tree shall be deemed to occupy 3 ares, and the irrigation cess levied accordingly.

2. Irregular irrigation of wet lands shall be treated as dry lands for the purpose of levy of irrigation cess and the cess shall be levied accordingly.

3. The charge per hectare for crops irrigated by means of mechanical contrivances shall be three-fourths of the rates levied for irrigation by direct flow, provided that the land has not also been irrigated by direct flow from a Government source. This shall apply also to irrigation by means of water carried in pots, provided that backyard cultivation so carried on shall be altogether exempt from charge.

4. Where portions of a field are irrigated, the charge shall be calculated on the actual extent irrigated.

5. Where two or more crops of different kinds liable to different rates of irrigation cess are cultivated, the levy shall be regulated according to the area under each crop.

6. Any variety of paddy which is harvested only once shall be treated as a single crop for the purpose of levy of irrigation cess irrespective of the period for which water is required for it.

7. In the case of ottadam cultivation on single crop wet lands, no irrigation cess shall be levied although the whole crop requires water for more than six months. If the lands are dry, the ottadam or samba crops standing on the ground after the harvest of the first crop shall not be treated as a second crop for the levy of irrigation cess.

8. Casuarina, bamboo and other timber and fuel plantations shall be treated as dry crops and one-third of irrigation cess for the first wet crop shall be levied for their irrigation on single crop wet lands. If the lands are dry, the irrigation cess shall be levied as for single crop or crops remaining on ground for more than six months, according to the number of months during which the water is actually taken.

EXEMPTIONS

1. No irrigation cess shall be leviable when crops classed as dry are irrigated by percolation, unless owing to drought or other special circumstances it is manifest that without such irrigation the land must have remained waste or the crop must have perished. In case of doubt whether the crop could have been successfully raised without such irrigation, no levy shall be made.

2. No irrigation cess shall be leviable on dry lands when used as seed-beds, but this exemption shall not apply when the water is irregularly taken.

THE SECOND SCHEDULE

(*See* section 5)

RATE OF PENALTY

No. of occasions of irregular irrigation	Rate of penalty	
	Wet lands	Lands other than wet lands
(1)	(2)	(3)
On the first occasion. . .	Nil	Not exceeding the amount of irrigation cess under Part II of the First Schedule.
On the second occasion . .	Not exceeding three times the irrigation cess under Part II of the First Schedule.	Not exceeding four times the irrigation cess under Part II of the First Schedule.
On the third occasion . .	Not exceeding eight times the irrigation cess under Part II of the First Schedule.	Not exceeding nine times the irrigation cess under Part II of the First Schedule.

(1)	(2)	(3)
On the fourth or any subsequent occasion	Not exceeding eighteen times the irrigation cess under Part II of the First Schedule	Not exceeding nineteen times the irrigation cess under Part II of the First Schedule

CONDITIONS

1. Where a crop is irrigated with the water taken in the manner referred to in section 5, the irrigation of such crop shall not be deemed to constitute more than one occasion.

2. The penalty leviable on the second or any subsequent occasion as indicated above shall be levied only when the land for which water is irregularly taken or used is the same survey field or registered sub-division or a portion of the same survey field or registered sub-division on both or all the occasions, as the case may be.

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secy. to the Govt. of India.

PRINTED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 1976